

DEORCHIS & PARTNERS, LLP

61 Broadway, 26th Floor
New York, New York 10006-2802
(212) 344-4700

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
F.H. BERTLING HOLDING KG,

08 Civ. 2003 (SHS)

Plaintiff,

-against-

**DECLARATION OF
FOLKER LEHNING**

RANHILL ENGINEERS AND CONSTRUCTORS
SDN. BHD.,

Defendant.

-----X

I, **FOLKER LEHNING**, hereby make this Declaration pursuant to 28 U.S.C. §
1746, and declare and state as follows:

1. I am a Project Director of F.H. Bertling Logistics GmbH, Hamburg, Germany, and affiliate of F.H. Bertling Holding KG ("FHB"), the Plaintiff in this action. This Declaration is offered in support of FHB's opposition to Ranhill Engineers and Constructors SDN. BHD.'s ("REC") Motion to Vacate the Rule B Attachment levied by FHB in the captioned lawsuit in New York.

2. I make this Declaration to the best of my personal knowledge obtained from my involvement in the planning and budgeting of Logistics in connection with a project for the construction of residential housing units in Libya by Defendant REC (the "Libyan Housing Project") and other services that I

provided to REC and its affiliates pursuant to a contract for Logistics between FHB and REC dated July 27, 2006 (the “Logistics Agreement”).

3. In May 2007, at the request of REC and by instruction from Jörg Blumberg, Chief Financial Officer of FHB, I reported to the offices of REC in Kuala Lumpur to act as FHB’s “Libya Project Logistics Director”. See letter from REC to RHB dated May 18, 2007, attached hereto as **Exhibit I**. The purpose of my mobilization in this regard was to provide consultation in order to help REC plan the logistics (*i.e.*, the transportation and positioning of goods, materials and equipment) and to budget for logistics in connection with the Libyan Housing Project. I reported to REC’s Libyan Housing Project Director, Mr. Alan Scott.

4. In extensive discussions with Mr. Scott, I was informed that the intentions of REC throughout the Libyan Housing Project were to use seagoing vessels for the transportation of voluminous and heavy materials for the construction of the housing units, such as cement, and for oversized equipment, such as cranes and other construction items such as camp site equipment, apartment doors, windows, and sanitary equipment.

5. This consultation, planning and budgeting stage at its peak was provided from May until October 2007, for which FHB invoiced REC for my time and expenses as an initial contribution in the amount of US \$12,200 pursuant to, and in accordance with, the terms and conditions of the Logistics Agreement.

6. During the course of the meetings with Mr. Scott of REC and others in REC’s and its affiliates’ Logistics and Procurement Departments, it was made clear to me

that the primary objective of the transportation and logistics services to be provided by FHB and its affiliates in connection with the Libyan Housing Project would be maritime in nature.

7. Even prior to my mobilization in REC's Kuala Lumpur office in May 2007, I was consulted by REC regarding ocean transportation of large quantities of cement to Libya in connection with the Libyan Housing Project. See email inquiry from REC dated 2 November 2006, inquiring regarding vessels and capacities from China; email exchanges with REC from 22-23 November 2006 regarding sea freight rates for contaminated cargo in connection with the Libyan Housing Project; and my email to Alan Scott of REC dated 11 December 2006 providing the said rates, both hereto as **Exhibit J**.

8. To a great extent, I worked in cooperation with REC's Logistics and Procurement staff on determining ocean freight rates from various destinations including Australia, Eastern Europe, and China for the ocean transportation of cement to Libya. The planned quantity was 1.7 billion tons over a period of about four (4) years. At freight rates of US \$53 to \$90 per ton, the total freight cost will be on the order of US \$100 billion.

9. Had REC not breached the Logistics Agreement, FHB and its affiliates would have arranged and/or provided the necessary ocean transportation for the cement. In terms of quantity and cost, ocean transportation was clearly the primary objective of the Logistics Agreement.

10. As a further example of the maritime nature of the Logistics Agreement, I attach as **Exhibit K** an email exchange from 22-24 May 2007 with REC's Procurement

and Logistics Department in which REC requested advice on ocean freight rates for cement in connection with the Libyan Housing Project.

11. Had REC continued to use FHB's services in support of the Libyan Housing Project pursuant to the Logistics Agreement, I have no doubt that the bulk of transportation and logistics services that FHB and its affiliates would have provided to REC and its affiliates would have been maritime in nature in that seagoing vessels would have been involved in the transportation.

I declare and state under penalty of perjury of the laws of the United States that the foregoing is true and correct.

Dated: 14 May 2008

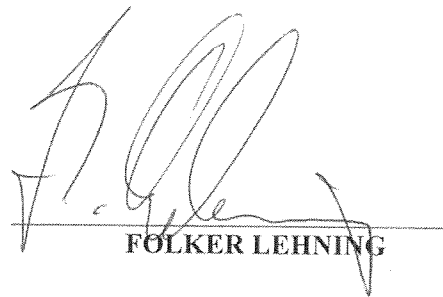
FOLKER LEHNING

1. and Logistics Department in which REC requested advice on ocean freight rates for cement in connection with the Libyan Housing Project.

2. Had REC continued to use FHB's services in support of the Libyan Housing Project pursuant to the Logistics Agreement, I have no doubt that the bulk of transportation and logistics services that FHB and its affiliates would have provided to REC and its affiliates would have been maritime in nature in that seagoing vessels would have been involved in the transportation.

I declare and state under penalty of perjury of the laws of the United States that the foregoing is true and correct.

Dated: 14 May 2008

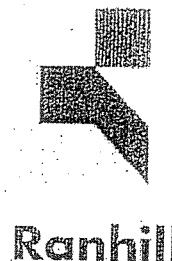


FOLKER LEHNING

EXHIBIT I

REC/LIBYA-BERTLING/CC009-07

May 18, 2007



F.H. Bertling Holding KG
Grosse Altefahre 23
23552 Lubeck
Germany

Attention : Mr. Jorg Blumberg

Dear Sirs,

LIBYA HOUSING PROJECT
- Logistics Agreement

We refer to the Logistics Agreement dated 27 July 2006 and to subsequent discussions on the advanced stage of our preparation for Project implementation and the need for your Services to commence.

Subject to our review of costs, we confirm you are required to mobilize Mr. Folker Lehming as Bertling's Libya Project Logistics Director with effect from 28 May 2007. Mr. Lehming will be based initially at 21st Floor of our KL office, reporting to our Project Director, Mr. Alan Scott

A meeting will be held at 10am, 23rd May 2007 at our KL office (31st Floor) between Mr. Folker and our Project Team to establish details of Bertling's Libya Project roles and responsibilities, inter-action with REC's Project Team, working rules and conditions and all other necessary matters.

The abovementioned Project meeting is not to be construed as the Pre-Commencement meeting referred to in Clause 3 of the Logistics Agreement. The Project meeting will however prepare as far as possible for the Pre-Commencement meeting, the date and venue of which will be notified to you in the near future.

Can you please advise by return the cost of Mr. Lehming for our review. We confirm that the cost as approved by REC and payment for Mr. Lehming will be in accordance with the Logistics Agreement.

X With regards to the payment due to you pursuant to clause 10(a) of the Logistics Agreement, we regret that we have to date been unable to make this payment which is due as you are aware to reasons beyond our control. We thank you for your understanding and support in this matter and confirm measures are in hand to effect the payment between one and three months from the date of this letter.


Ranhill Engineers and Constructors Sdn. Bhd. (221264-W)
21st Floor, Empire Tower, No. 162, Jalan Tun Razak, 50400 Kuala Lumpur, Malaysia.
Tel: 603 2171 2020 Fax: 603 2171 2121 www.ranhill.com.my email: info@ranhill.com.my

A Ranhill Company



Certificate No:
113685

Yours faithfully,
Ranhill Engineers & Constructors Sdn. Bhd.


Ron Metcalf
Chief Executive Officer

c.c	Tarique Azam	(SVP - Infrastructure & Building)
	Ivan Bota	(SVP - Process Power Water)
	Rajam Sega	(GM - Finance)
	Rooyahaiti Yaakub	(GM - Human Resource)
	Peter S. Jackson	(GM - Procurement & Logistics)
	Alan Scott	(PD - Libya Project)
	Gareth Norman	(SVP - Finance, Contracts & Commercial)

Exhibit J

From: Suida Selamat [mailto:suida@ranhill.com.my]
Sent: Donnerstag, 23. November 2006 11:50
To: Folker Lehning DEBRE; 'Thachnamurthy a/I Velautham'; 'Folker Lehning (Malaysia)'
Cc: 'Chan Lai Wan'; ivan@ranhill.com.my; 'Prem Kumar Sothilingam'; 'Seng Jing Mei'; 'Abdul Haris'; manfred.bruns@bertling.com; 'GÜNTHER BIELFELD'
Subject: RE: SEA FREIGHT, HANDLING & TRANSPORTATION RATES FOR LIBYA HOUSING PROJECT
Importance: High

Dear Folker,

Your message noted. Please forward the rates whichever already in your hand i.e. containers, handling, transportation & etc by today (port to door exclusive duty & tax – based on warehouse/site will be within Tripoli).

We can meet again today discussing on the break-bulk & conventional in order for you to provide us estimation rates for our planning & budget purposes.

Looking forward for your soonest reply.

5/13/2008

Best regards
Suida

From: Folker Lehning DEBRE [mailto:Folker.Lehning@bertling-logistics.com]
Sent: Thursday, November 23, 2006 9:51 AM
To: Thachnamurthy a/I Velautham; Folker Lehning (Malaysia)
Cc: Chan Lai Wan; ivan@ranhill.com.my; Prem Kumar Sothilingam; Seng Jing Mei; Suida Selamat; Abdul Haris; manfred.bruns@bertling.com; GÜNTHER BIELFELD
Subject: RE: SEA FREIGHT, HANDLING & TRANSPORTATION RATES FOR LIBYA HOUSING PROJECT

Dear Sir,

As already mentioned yesterday to you, miracles take some more time. Yr deadline to respond is not acceptable. Further we agreed, that container rates can be given but for break bulk cargo we need to have cargo details, otherwise you will be mislead by any rates given. I will be in yr office this afternoon and after I have finished with Ivan Bota we can sit together again, if you like.

Thank you for your understanding and support.

Best regards
Folker Lehning

From: Thachnamurthy a/I Velautham [mailto:murthy@ranhill.com.my]
Sent: Mittwoch, 22. November 2006 10:44
To: Folker Lehning (Malaysia)
Cc: 'Chan Lai Wan'; ivan@ranhill.com.my; 'Prem Kumar Sothilingam'; 'Seng Jing Mei'; 'Suida Selamat'; 'Abdul Haris'
Subject: FW: SEA FREIGHT, HANDLING & TRANSPORTATION RATES FOR LIBYA HOUSING PROJECT

Mr. Folker Lehning
F.H Bertling (M) Sdn Bhd
Kuala Lumpur

Dear Folker,

Subject : Rates for Sea Freight, Handling and Inland Transportation for National Housing

Development Project, Libya (10,000 units)

Further to our meeting with you at our office today, please provide rates / charges for the commodity (building materials) under following category :

- container box rates for 20' and 40'
- conventional rate per M3 / MT
- handling, inland transportation rate per 20' and 40' or by truck load from Tripoli port to Tajura site

* - any Libyan Customs fees etc at Tripoli port

Box Rates – Country of Origin FOB Port to Tripoli Port, Libya

- Turkey
- Ukraine
- Russia
- Middle East
- Malaysia / Port Klang / Singapore
- Thailand

5/13/2008

- Indonesia / Surabaya
 - India / Mumbai and Chennai
 - Italy
- Egypt (by road)

Please submit the rates / prices by 23 Nov 06 as per spreadsheet attached.

From: Chan Lai Wan [mailto:angie.chan@ranhill.com.my]

Sent: Wednesday, November 22, 2006 4:15 PM

To: 'Thachnamurthy a/l Velautham'

Subject:

From: prem [mailto:prem@ranhill.com.my]
Sent: Donnerstag, 2. November 2006 12:50
To: 'Folker Lehning (Malaysia)'; Folker Lehning DEBRE
Cc: alan@ranhill.com.my; 'Hayley van de Glind (E-Mail)'; angie@ranhill.com.my
Subject: Request For Information

Dear Folker,
We would like your good self to assist us on the queries below for our references;

Port Of Loading: Quindao ; North Port, China
Lufeng Port; China
Hinjing Port; China

- 1) Types of Vessels Available
- 2) Max capacity of the Vessels
- 3) Availability of the Vessels
- 4) Capacity of the Crane's on Board

Pls take note that all above are for conventional shipments. Basically will be cements in jumbo bags. We would appreciate if you could give us a price comparison of hiring a time charter and a liner vessel. Offloading time about 30 days. Kindly advise what will be the total cost inclusive of demurrage.

We kindly await for your reply.

Regards,
Prem

5/13/2008

From: Folker Lehning DEBRE

Sent: Montag, 11. Dezember 2006 15:36

To: 'Alan Scott'

Subject: Transport aspects Cement for Libya housing development project

Dear Alan,

Att. pls find some fact finding procedures for your further negotiations with potential suppliers, as earlier already discussed.

Public holidays and bank holidays you can find on the internet under

<http://www.qppstudio.net/bankholidays2007/libya.htm>

for consideration

Further I again attach a possible vessel schedule, which is divided in 3 categories, i.e shipments of 10,000 tons / 20,000 tons / 30,000 tons each per shipment . This was earlier required by Prem for time charter calculation, where by the requirement was a delivery of 30,000 tons per month to Khoms port.

Hope, this will assist you. In any case we have time to discuss tomorrow afternoonn, when meeting.

Best regards

Folker Lehning

5/13/2008



HOUSING DEVELOPMENT PROJECT LIBYA

Transport Aspects for Cement Deliveries

We recommend to consider the following aspects and terms for your purchase of cement :

1. Cargo Packing

- recommended to ship in 1500 kgs jumbo bags
- quality of the jumbo bags must be strong enough for stacking
- supplier to state the max of tiers for these jumbo-bags

2. Quantity of cargo per shipment

- max. volume should not exceed 25,000 metric tons per vessel
- Khoms port could accept vessels at berth # 19 / draft max 11,2 meter
- Khoms port berth # 16 / 17 / 18 can accept max 20,000 metric tons shipments per vessel at draft of max 10 meters

3. Handling of cargo during discharge at Khoms port

- stevedores will hook 2-4 bags per lift to ship's crane
- daily discharge rate up to 2000 metric tons (4 hatches / 4 Gangs) is achievable

4. Cement testing procedure

- cement testing is compulsory and **2 days** should be allowed in Charter Parties
- all testing will be done in Tripoli

5. Vessel specifications

- type of vessels recommended to be
 - single decker / box shaped / geared , preferably 4 hatches / 4 cranes
 - max. age of vessels not older than 20 years, otherwise updated classification certificate
 - vessels to have suitable discharge equipment like tested chains and slings, as Khoms port cannot provide tested equipment

6. Charter Party

- if buying terms are free out libyan port (Khoms) supplier to provide
- 1. approx. transit time from POL ? to Khoms port
- 2. free discharge time (for shipments of 20,000 mto it should be at least 10 days
- 3. demurrage / damage on detention rate per day
- free use of ship's gears
- permission, that cranes can be operated by local stevedores
- Friday discharge should be excluded from charter terms due to islamic weekend
- If possible (when terms free out) terms should read "FREE OUT IN BERTH" . This is important if the port is congested and the unloading time would count when vessel calls pilot station Khoms port
- Holidays should be excluded in the charter party, especially for islamic Ramadan

7. Availability of suitable vessels

- supplier should confirm availability of vessels
- supplier should confirm and proof, if vessels are contracted on time charter with respective details
- supplier should provide time schedule for round trip calculated time from POL to Khoms and back to POL , as long the calculation is based on time charter
- supplier to state loading rate per day in order to check if feasible or not



8. General Information Libyan Ports

- in general libyan ports will be called by carriers / shipping lines on basis free out cop. COP = customs of the port, which means free out
- all vessel have to be geared with ship's cranes
- if vessel is delayed by waiting to berth, discharge time to count from arrival pilot station of respective port. Therefore it highly recommendable to contract **free out in berth**

9. Commercial Assistance

- F.H. Bertling is prepared to assist REC in any of their requirements to achieve proper terms and conditions. This includes to attend to purchase negotiations with REC suppliers

F.H. Bertling (M) Sdn Bhd
Kuala Lumpur
Folker Lehning

December 11th, 2006



Sea Freight For National Housing Development Project, Libya

AREA	THAILAND	INDONESIA	MIDDLE EAST	INDIA
POL	Port Klang	Surabaya	Dubai	Chennai
POD	Khoms port, Libya	Khoms port, Libya	Khoms port, Libya	Khoms port, Libya
Ocean freight:	Laem Chabang/Bangkok	Jakarta	Dubai	Chennai
	Tripoli (no service to Khoms)	Khoms port, Libya	Khoms port, Libya	Khoms port, Libya
20'GP	\$1,550.00	\$1,350.00		
40'GP	\$3,100.00	\$2,600.00		
40'HC	\$3,250.00	\$2,800.00		
Subject to surcharges:				
BAF	\$264.00/teus	\$248.00/teus		
CAF	8.0%	8.0%		
CSF	NIL	\$6/cntr		
WRS	\$20.00/teus	\$20.00/teus		
Port Congestion	\$140.00/teus	NIL		
Peak Season	NIL	\$140.00/teus		
Any other charges please indicate below				
Liner		MSC		
T/time		35 days		
Frequency		Friday		

* Please indicate transit time & which liner you're using

[illegible]

EXHIBIT K

From: Kaspar Wischhusen [mailto:kiwi@fh-bertling.de]
Sent: Donnerstag, 24. Mai 2007 15:20
To: M Bruns (Logistics-DEBRE); Folker Lehning DEBRE
Cc: bernd.wiesch@bertling.com
Subject: AW: Freight charges for Cement from Guanxi

All/kiwi

had another word with thoresen who can indicate as flws:

thoresen owned , controlled or chartered tonnage suitable for the carriage of cement in bags

for

acct bertling

- 15.000mts cement in big bags per month, 10 pct moloo
 - no tier limitation
 - first shipment 2007, last shipment 2010
 - first shipment to start.... pls advise
 - as p/c in owrs opt
 - l/c of each shipment as per carrierr's schedule
 - load port 1 gspb aaaa out of china s.e.asia - pls advise possible ports
 - disch port 1 gsbp aaaa libya - pls advise possible ports
 - sub checking restrictions etc for ldg/disch ports
 - frt usd 96,50 pmt fios l/s/d
 - 4.000mts shinc/2.500mts fhinc
 - sub further terms/dtls
- end

this is a rough indication only. wld need to know intended ports etc

5/13/2008

in order to check further.

brgds

From: angie [mailto:angie.chan@ranhill.com.my]
Sent: Dienstag, 22. Mai 2007 15:39
To: Folker Lehning (Malaysia)
Subject: Freight charges for Cement from Guanxi

Good afternoon, Please advice on the freight charge per ton on the Cement on a 2 tons Jumbo bag cement as I need to advise the management on this matter urgently. Thank you. The factory is in Guanxi.

Angie Chan Lai Wan
Procurement Manager
Procurement and Logistic Dept
c/o Ranhill Engineers and Constructors Sdn Bhd
21st Floor Empire Tower
No : 182 Jalan Tun Razak
50400 Kuala Lumpur
Malaysia
Telephone : +603-21712020 Ext 1162
Fascimile : +603-21642040
Handphone : +6012-3015284
+6019-2252148
Email : angie.chan@ranhill.com.my
Skype : Scarrykat(angie.chan1)
Website : www.ranhill.com.my

5/13/2008